

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHAEL SMITH and JOHN O'MEARA, as :  
Trustees and Fiduciaries of the Local 966 Health :  
Fund, : **DEFAULT JUDGMENT AND**  
Plaintiffs, : **ORDER**  
vs. : **1:24-CV-04320-FB-LKE**  
BEDFORD STUYVESANT RESTORATION :  
CORPORATION, :  
Defendant. :  
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This action having been commenced on June 18, 2024 by the filing of the complaint and the issuance of the summons; a copy of the summons and complaint having been personally served on Defendant Bedford Stuyvesant Restoration Corporation (“Bedford”) on September 4, 2024 pursuant to Section 308 of the New York Civil Practice Law and Rules, and proof of service having been filed with the Clerk of Court on September 9, 2024; Bedford not having answered the complaint; and the time for answering the complaint having expired; said default being willful because of the failure of Bedford to answer, prejudicial to Plaintiffs in light of the statutory policy favoring the efficacious resolution of collection actions by employee benefit funds under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”); and the Defendant lacking a meritorious defense; it is:

ORDERED, ADJUDGED AND DECREED that

1. Bedford is liable to Plaintiffs in the amount of **\$680,410.85**, consisting of:
  - (a) \$99,925.00 in audited contributions;
  - (b) \$38,172.06 in interest on audited contributions through October 31, 2024, plus \$32.85 for each day thereafter through the date of payment;
  - (c) \$38,172.06 in liquidated damages with respect to audited contributions, matching with interest as accrued for each day thereafter October 31, 2024;

- (d) \$3,910.00 in underpaid contributions;
- (e) \$1,286.30 in interest on underpaid contributions through October 31, 2024, plus \$1.28 for each day thereafter through the date of payment;
- (f) \$1,286.30 in liquidated damages with respect to underpaid contributions, matching with interest as accrued for each day thereafter October 31, 2024;
- (g) \$985.58 in interest for previously late paid contributions;
- (h) \$34,350.00 in attorney's fees and costs;
- (i) \$2,954.25 in audit fees and costs;
- (j) \$239.30 for service of process pursuant to R. 4(d)(2)(A);
- (k) \$405.20 for costs of filing;
- (l) all other costs incurred by the Fund in collecting the contributions; and
- (m) \$458,724.80 in health benefits paid on behalf of an employee otherwise ineligible for such benefits.

It is further ORDERED, ADJUDGED and DECREED that this action is dismissed without prejudice against Defendant Bedford Stuyvesant Restoration Corporation, with leave to Plaintiffs to either reopen this action or bring a new action against any entity that falls within Bedford's controlled group, once identified, for the amount of judgment awarded herein, plus additional damages, if any.

SO ORDERED.

Dated: \_\_\_\_\_  
Brooklyn, New York

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HON. FREDERIC BLOCK, U.S.D.J.